IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 29689 of 2005(H)

PETITIONERS:

1. NARAYANA DAS.K. SENIOR GRADE ASSISTANT, KANNUR UNIVERSITY, ON DEPUTATION FROM KANNUR UNIVERSITY CAMPUS, MANGATTUPARAMBA, KANNUR DIST.

2. PRAKASHAN ANTHOLI, SENIOR GRADE ASST., KANNUR UNIVERSITY, ON DEPUTATION FROM, CALICUT UNIVERSITY, KANNUR UNIVERSITY CAMPUS, MANGATTUPPARAMBA, KANNUR DISTRICT.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE CALICUT UNIVERSITY, REPRESENTED BY ITS REGISTRAR, CALICUT UNIVERSITY POST, THENHIPPALAM, MALAPPURAM.

3. THE KANNUR UNIVERSITY, REPRESENTED BY ITS REGISTRAR, KANNUR UNIVERSITY CAMPUS, MANGATTUPPARAMBA, KANNUR.

BY ADV. SRI.S.GOPAKUMARAN NAIR, SC, CALICUT UTY
SRI. K.JAJU BABU, SC, KANNUR UNIVERSITY
SRI.E.S.ASHRAF, SC, CALICUT UNIVERSITY
GOVERNMENT PLEADER SRI.T.T.MUHAMOOD
SRI.M.SASEENDRAN,SC,KANNUR UNIVERSITY
SRI.ASOK M.CHERIAN,SC,CALICUT UNIERSITY
SRI.P.C.SASIDHARAN,SC,CALICUT UNIERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING

APPENDIX

PETITIONERS' EXHIBITS:

Ext.P1: True copy of the order G.O.(MS)No.122/2001/H.Edn. dated 27.9.2001.

Ext.P2: Relevant extract of the minutes of the meeting of the Syndicate of the Kannur University held on 24.5.2001.

Ext.P3: True copy of the letter addressed by the Registrar, Kannur University to the Government dated 23.10.2001.

Ext.P4: True copy of the judgment in W.A.No.1889/00 dated 1.10.2003.

Ext.P5: True copy of the letter addressed by the Calicut University to the Government dated 11.2.2004.

Ext.P6: True copy of the judgment in W.P.(C)No.10601/04 dated 11.8.2005.

Ext.P7: True copy of the order issued by the Government to the petiioners dated 15.10.2005.

RESPONDENT'S EXHIBITS:

Ext.R1(a): True copy of the final list of optees to save Kannur University.

Ext.R1(b): True copy of the list of staff willing to be transferred to Kannur University.

Ext.R1(c): True copy of the G.O.(MS)No.86/98/H.Edn. dated 22.7.98.

Ext.R1(d): True copy of Govt. Lr.No.14988/B2/99/H.Edn. dated 17.11.2000.

Ext.R1(e): True copy of G.O.(MS)No.122/01/H.Edn. dated 27.9.01.

Ext.R1(f): True copy of Govt. Letter No.34694/B2/03/H.Edn. dated 25.2.2004.

// True copy //

P.A. to Judge

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A.K.BASHEER, J.

W.P.(C)No.29689 OF 2005

Dated this the 13th day of June, 2007

JUDGMENT

Having heard learned counsel for the petitioners, learned Standing Counsel for the University and also the learned Government Pleader, I am satisfied that Ext.P7 order passed by the Government is liable to be set aside for reasons more than one.

2. It is not in dispute that petitioners were included in the list of 34 employees who were initially allowed to be transferred to Kannur University. Ultimately when the issue came up before the Division Bench of this court in writ appeal No.1889/2000, it was reported that out of 20 appellants 17 had already been adjusted against available vacancies in the Kannur University. Only three persons remained to be absorbed then. At that stage, learned counsel for the University had informed the Division Bench that enough vacancies were available to accommodate the remaining three appellants and therefore their claim would be considered. It was further stated that they would be absorbed in the service of Kannur University, if there was nothing against them. Petitioners in this writ petition are the two out of the above three.

3. It is true that in Ext.P6 judgment, this court had directed the Government to consider the request of the petitioners in the light of Section 79(2) of the Kannur University Act. Government has passed Ext.P7 order pursuant to the said direction holding that the orders of transfer passed in respect of other employees had been issued as one time arrangement as provided under the Act. But the said provision has ceased to be operative after coming into force of the statutes.

4. It is pertinent to note that the Kannur University had undertaken before the Division Bench that petitioners herein who were appellants 18 and 19 in the writ appeal would be absorbed in service, if there was nothing against them. Since the University had given the said undertaking before this court, I do not find any reason why the Government should not have accepted the same particularly, since no adverse report has been made against them. It is also brought to my notice that the Syndicate of the Kannur University has passed a resolution to the effect that there is no objection in transferring the service of the petitioners to that University from the University of Calicut on option. A copy of the said resolution has been made available for perusal before me. I

have referred to the above aspect only to highlight the fact that the Government ought to have kept all these matters in view particularly, the fact that the Kannur University had undertaken before the Division Bench of this court that the case of the petitioners would be favourably considered since vacancies were available in the University. Hence, Ext.P7 order passed by the Government is liable to be set aside. I do so.

5. In the above facts and circumstances, the writ petition is disposed of with a direction to the Government to reconsider the matter and pass appropriate fresh orders after affording sufficient opportunity to the petitioners and the Universities concerned to be heard. This shall be done as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

A.K.BASHEER, JUDGE

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